

**Appendix A.3****NCUA v. Credit Suisse Grp. AG, No. 13-2497 (D. Kan.)****Original Complaint filed Sept. 23, 2013; Amended Complaint filed Oct. 6, 2014**

<b>Credit Union &amp; Dates of Conservatorship and Liquidation<sup>1</sup></b>	<b>Claims Subject To Timeliness Challenges<sup>2</sup></b>	<b>Pre-Conservatorship Statutes of Limitation<sup>3</sup></b>	<b>Claims Timely As Of Conservatorship If They Did Not Accrue Prior To<sup>4</sup></b>	<b>Expiration of Minimum 3-Year Limitations Period for Tort Claims</b>	<b>Expiration of Minimum 6-Year Limitations Period for Contract Claims</b>
<b>WesCorp (CA)</b> 3/20/09 (conservatorship) 10/1/10 (liquidation)	C, UE, TI, UCL	<b>C:</b> 4 years <b>UE:</b> 4 years <b>TI:</b> 2 years <b>UCL:</b> 4 years	<b>C:</b> 3/20/2005 <b>UE:</b> 3/20/2005 <b>TI:</b> 3/20/2007 <b>UCL:</b> 3/20/2005	10/1/2013	10/1/16
<b>U.S. Central (KS)</b> 3/20/09 (conservatorship) 10/1/10 (liquidation)	C, UE, TI	<b>C:</b> 5 years <b>UE:</b> 5 years <b>TI:</b> 2 years	<b>C:</b> 3/20/2004 <b>UE:</b> 3/20/2004 <b>TI:</b> 3/20/2007	10/1/2013	10/1/16
<b>Members United (IL)</b> 9/24/10 (conservatorship) 10/31/10 (liquidation)	C, UE, TI	<b>C:</b> 5 years <b>UE:</b> 5 years <b>TI:</b> 2 years	<b>C:</b> 9/24/2005 <b>UE:</b> 9/24/2005 <b>TI:</b> 9/24/2008	10/31/2013	10/31/16
<b>Southwest (TX)</b> 9/24/10 (conservatorship) 10/31/10 (liquidation)	C, UE, TI	<b>C:</b> 4 years <b>UE:</b> 2 years <b>TI:</b> 2 years	<b>C:</b> 9/24/2006 <b>UE:</b> 9/24/2008 <b>TI:</b> 9/24/2008	10/31/2013	10/31/16

<sup>1</sup> NCUA only brings antitrust claims on behalf of Constitution, and Defendants do not challenge the timeliness of those claims.

<sup>2</sup> These abbreviations are used: breach of contract (“C”), unjust enrichment (“UE”), tortious interference (“TI”), Unfair Competition Law (“UCL”)

<sup>3</sup> For the purpose of this motion, NCUA assumes Defendants are correct that Kansas’s statutes of limitations apply to NCUA’s common law claims pre-conservatorship; that the pre-conservatorship statute of limitations for the TI claims is two years; and that the pre-conservatorship statute of limitations is four years for the UCL claim. *See* Master Appendix, Schedule J.4, K.3, and L.3. Defendants, however, are incorrect that the statute of limitations for the unjust enrichment claims is three years. *See* Master Appendix, Schedule L.3. NCUA’s Kansas unjust enrichment claims are governed by a five-year statute of limitations. *See Freebird, Inc. v. Merit Energy Co.*, 883 F. Supp. 2d 1026, 1031 (D. Kan. 2012) (Kan. Stat. Ann. § 60-511 applied to unjust enrichment claims for an “implied in fact” contract, citing *Smith v. Amoco Prod. Co.*, 31 P.3d 255, 264-68 (Kan. 2001)); NCUA Compl. ¶ 304. Due to Kansas’s borrowing statute, shorter two- and four- year statutes of limitations apply to the unjust enrichment claims for Southwest and WesCorp, respectively. *See* Kan. Stat. Ann. § 60-516 (out-of-state plaintiffs must satisfy the statute of limitations of the state where the cause of action accrued); Tex. Civ. Prac. & Rem. Code § 16.003; Cal. Civ. Pro. § 337; *cf.* 735 ILCS 5/13-205. The statute of limitations for the contract claims are as follows: Kan. Stat. Ann. § 60-511(1) (5 years); Tex. Civ. Prac. & Rem. Code § 16.051 (4 years); Cal. Civ. Pro. § 337 (4 years); 735 ILCS 5/13-206 (10 years)

<sup>4</sup> NCUA’s claims were tolled by fraudulent concealment, NCUA Compl. ¶¶ 193-223, and are subject to the discovery rule given the difficulty of discovering the misconduct: **Texas:** *Via Net v. TIG Ins. Co.*, 211 S.W.3d 310, 314-15 (Tex. 2006); *Robinson v. Weaver*, 550 S.W.2d 18, 22 n.1 (Tex. 1977); *S.V. v. R.V.*, 933 S.W.2d 1, 5 (Tex. 1996) (canvassing example applications of the discovery rule, including in a “loan contract fraud” action). **California:** *Aryeh v. Canon Bus. Soln.s, Inc.*, 292 P.3d 871, 875, 878 (Cal. 2013) (UCL); *Gryczman v. 4550 Pico Partners, Ltd.*, 131 Cal. Rptr. 2d 680, 682 (Cal. Ct. App. 2003). **Illinois:** *Greenberg v. Broad Capital Assocs., Inc.*, 2002 WL 31269617, at \*3 (N.D. Ill. Oct. 9, 2002) (citing *Hermitage Corp. v. Contractors Adjustment Co.*, 651 N.E.2d 1132, 1135 (Ill. 1995)). **Kansas:** Kan. Stat. Ann. § 60-513(b).